

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE**

45 Fremont Street
San Francisco, CA 94105

FINAL STATEMENT OF REASONS

Self-Service Storage Insurance Agent License

RH06093053

August 29, 2006

Notice File No. Z-06-0627-03

UPDATE OF INFORMATIVE DIGEST

The Commissioner has determined that there is no overall fiscal impact on the agency or State government because the proposed regulations do not require any allocation of resources to the enforcement process beyond those which are already allocated for this purpose. Although the number of initial licensing applications fell below original estimates, the revenue generated from each application as derived from original estimates is expected to cover the administration of the licensing program with existing resources and existing personnel.

UPDATE OF INITIAL STATEMENT OF REASONS

There are no updates to the Initial Statement of Reasons.

UPDATE OF AMENDED INITIAL STATEMENT OF REASONS

There are no updates to the Amended Initial Statement of Reasons.

UPDATE ON MATERIAL RELIED UPON

No material other than that presented in the Initial Statement of Reasons and Amended Initial Statement of Reasons has been relied upon by the Department of Insurance.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Department has determined that adoption, amendment or repeal of the regulation does not impose a mandate on local agencies or school districts. The regulation has nothing to do with local agencies or school districts; it neither requires nor prohibits action on their part.

ALTERNATIVES

No alternatives were presented to or considered by the Commissioner. The dollar amount for the fees was based on reasonable estimates to implement the licensing requirements. That no public comment was made addressing any alternatives to be more effective, as effective, or less burdensome to affected persons supports the determination that no alternative would be more effective in carrying out the purpose for which the regulation is proposed.

SUMMARY OF AND RESPONSE TO PUBLIC COMMENT / OBJECTIONS OR RECOMMENDATIONS

A recital of written and oral comment, objection, and/or recommendation received during the public comment period and the response is attached hereto.

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Self-Service Insurance Agent Regulation
Summary and Response to Public Comments re Proposed Regulation

COMMENTS	SECTION	SUMMARY OF COMMENT	CDI RESPONSE
<p>Gwen Kelly CCH Insurance Services, a part of Wolters Kluwer Financial Services</p> <p>July 10, 2006 Written comment via e-mail</p>		<p>Re: Adopted Rule Confirmation Date -- ER04041538</p> <p>Title 10, sections 2194.8 through 2194.17 Is the effective date 6/12 or 6/21/06?</p>	<p>The Office of Administrative Law approved the emergency regulatory action effective 6/30/06; it will expire on 10/31/06 and the Certificate of Compliance for this action is due to OAL no later than 10/30/06. See corresponding e-mail response under TAB K.</p>
<p>Andrew G. Loeb McNitt & Loeb</p> <p>July 13, 2006 Written comment via e-mail</p>		<p>Re: Text of Proposed Regulation The proposed regulations do not appear to be posted on the Department's Website with the other related documents. [A five choice grid was produced.]</p>	<p>Our document system was not publishing all of the documents for s till to be determined reason. Thank you for alerting the Department to this problem. I reported the problem to your legal computer staff and the problem appears to have been corrected. Please try the Website search again and you should have the following document choices, including the text of regulation. [An eight choice grid was produced in the e-mail response.] See corresponding e-mail response under TAB K.</p>

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<p>Amber Engel Regulations Regional Manager State Net</p> <p>July 19, 2006 Written comment via e-mail</p>		<p>Re: Text of Proposed Regulation The proposed text of RH06093053 is not posted to the department of Insurance Website.</p>	<p>Our document system was not publishing all of the documents for s till to be determined reason. Thank you for alerting the Department to this problem. I reported the problem to your legal computer staff and the problem appears to have been corrected. Please try the Website search again and you should have the following document choices, including the text of regulation. [An eight choice grid was produced in the e-mail response.] See corresponding e-mail response under TAB K.</p>
<p>Amber Engel Regulations Regional Manager State Net</p> <p>July 20, 2006 Written comment via e-mail</p>		<p>Re: Text of Proposed Regulation “It appears that there were some changes/additions made to this proposed reg in the 7/14/06 register so I also need a copy of those changes in addition to the proposed text.”</p>	<p>Our document system was not publishing all of the documents for s till to be determined reason. Thank you for alerting the Department to this problem. I reported the problem to your legal computer staff and the problem appears to have been corrected. Please try the Website search again and you should have the following document choices, including the text of regulation and updates as indicated in the 7/14/06 Notice Register. [An eight choice grid was produced in the e-mail response.] See corresponding e-mail response under TAB K.</p>

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<p>Amber Engel Regulations Regional Manager State Net</p> <p>July 20, 2006 Written comment via e-mail</p>		Thank you; will try computer search again.	The Department makes every effort to assist members of the public and words of appreciation are always welcomed and valued. Thank you.
<p>Andrew G. Loeb McNitt & Loeb</p> <p>July 20, 2006 Written comment via e-mail</p>		<p>Thank you.</p> <p>Also requests that the Department use its e-mail and press release systems to alert the public to the issuance of notices and texts of proposed regulations. “Such measures are easy and inexpensive for the Department and would greatly increase public notice of regulation-adoption proceedings, encouraging public input in a meaningful way.”</p>	<p>The Department makes every effort to assist members of the public and words of appreciation are always welcomed and valued. Thank you.</p> <p>The Department at any given time may be promulgating hundreds of regulations. All of the attorneys and legal staff have other duties in addition to working on regulations. The Department believes that complying with notice requirements under the Government Code is an efficient and effective means of soliciting and encouraging necessary public input. The Department does not believe that redundant measures as suggested would produce better results. In addition to notices via U.S. Mail, the Department’s Website – readily available to the public – contains all information pertaining to regulations, including means of commenting and participating in the regulations process.</p>

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<p>Gwen Kelly CCH Insurance Services, a part of Wolters Kluwer Financial Services</p> <p>July 27, 2006 Written comment via e-mail</p>		<p>Re: RH06093053 A request to e-mail an html or pdf copy of the text of the emergency rule [sic] and documents included by reference.</p>	<p>The Notice and Amended Notice in the permanent rulemaking – RH06093053 – provide instruction on access to the documents for both the permanent and emergency rulemaking – ER04041538. The Website search should provide all of the document options. The Amended Notice provides instruction to the license forms directory which are the documents included by reference. [An eight choice grid was produced in the e-mail response.] See corresponding e-mail response under TAB K.</p>
<p>Gwen Kelly CCH Insurance Services</p> <p>July 27, 2006 Written comment via e-mail</p>		<p>Thank you for the Department’s July 10, 2006 e-mail response to a July 10, 2006 inquiry (as indicated above).</p> <p>Also, can an emergency rule be effective for more than a 120 day period? “June 30, 2006 +120 days = Oct. 28, 2006.”</p>	<p>The Department makes every effort to assist members of the public and words of appreciation are always welcomed and valued. Thank you.</p> <p>Yes an Emergency Rule may be effective for more than 120 days; an Emergency rule may be re-adopted. See corresponding e-mail response under TAB K.</p>

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<p>John Gulyas Attorney- Legal Department Bader Company</p> <p>July 31, 2006 Written comment via e-mail</p>		<p>Questions concerning whether an organization can obtain a license and can act as a franchisee for more than one self-service storage company without obtaining additional licenses.</p> <p>Scenario 1: "Organization A (Org. A) is a management company for several self storage sites. The sites are owned by different companies. Org. A oversees operations at each site, it hires & fires employees, it collects rental payments, etc. Personnel are the employees of Org. A. Each site has a different name and has its own FEIN, as they are owned by different companies. Org. A wants to sell self service storage insurance at each of the sites it manages. Org. A plans to complete applications, collect premium and forward both to the insurer. Org. A will receive commissions on these sales. These commissions will be forwarded on to the self storage site rentals, sales of locks & boxes, ins. commissions, etc.</p>	<p>Scenario 1: Question 1: Can Org. A obtain one organization license and sell insurance at all the sites it operates? ANSWER: Yes, Org. A can obtain one organization license and sell insurance at all the sites it operates. Employees may be listed as endorsees. See, also, California Insurance Code sections 1758.7, 1758.72, and 1758.73.</p> <p>Question 2: Can the site owners receive commissions as part of their regular compensation without also having to obtain a self service storage insurance license? ANSWER: Generally, only licensees may receive or share commissions, with some exceptions, and depending on the line of insurance. Because in this case the owners are not franchises or employees of the Org. A, they cannot be considered endorsees of Org. A, the license holder, and would not be considered licensees. The site owners should individually obtain a self service storage insurance agent license to receive commissions. Further, if any employees were directly hired through unlicensed site owners rather than Org. A, those employees would not be able to considered as an endorsees of Org. A and could not lawfully offer insurance on site, where some insurance offers or transactions could potentially take place.</p> <p>Question 3: Would this answer change i[f] the employees, while hired, fired & managed by Org. A are actually employees of each site?</p>

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		<p>Org. A will be paid a management fee which will not be based on insurance sales. Can Org. A obtain one organization license and sell insurance at all the sites it operates? Can the site owners receive commissions as part of their regular compensation without also having to obtain a self service storage insurance license? Would this answer change i[f] the employees, while hired, fired & managed by Org. A are actually employees of each site?”</p> <p>Scenario 2: “Organization B (Org. B) is a large company that owns and operates many self storage sites under its own name. In order to sell insurance it obtains a California self service insurance agents [sic] license. Org. B also franchises its name, logo, etc. to several independently owned storage sites. These franchise sites look exactly [like] those wholly owned by Org. B. May the franchise sites sell insurance under Org. B’s</p>	<p>ANSWER: The answer to Question 3 is similar to the answer to Question 2. The “employees of each site” cannot be considered endorsees of Org. A if they are employees of each site owner. And, because the site owners are not franchisees or employees of Org. A, if a site owner is not licensed, the respective employees do not have licensee endorsee status.</p> <p>Scenario 2: Question: May the franchise sites sell insurance under Org. B’s license or do they have to obtain their own license? ANSWER: Franchise sites may sell insurance under Org. B’s license. Org. B. See Title 10 California Code of Regulations section 2194.16 (c) Form Lic. SSA 1 (Authorized Endorsees – Self-Service Storage Facility.</p>

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		license or do they have to obtain their own license?"	